

Assembly Bill No. 1422

CHAPTER 157

An act to amend Section 130105 of the Health and Safety Code, to amend Section 12693.43 of, and to add Section 12693.22 to, the Insurance Code, to amend, repeal, and add Sections 12201, 12204, 12251, 12253, 12254, 12257, 12258, 12260, 12301, 12302, 12303, 12304, 12305, 12307, 12412, 12413, 12421, 12422, 12423, 12427, 12428, 12429, 12431, 12433, 12434, 12491, 12493, 12494, 12601, 12602, 12631, 12632, 12636, 12636.5, 12679, 12681, 12801, 12951, 12977, 12983, 12984, and 13108 of, to add and repeal Sections 12009 and 12207 of, and to add and repeal Article 4 (commencing with Section 12240) of Chapter 3 of Part 7 of Division 2 of, the Revenue and Taxation Code, and to add and repeal Section 14301.11 of the Welfare and Institutions Code, relating to health, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 22, 2009. Filed with
Secretary of State September 22, 2009.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1422, Bass. Health care programs: California Children and Families Act of 1998.

Existing law imposes various taxes, including a tax at a specified rate on the gross premiums of an insurer, as defined.

Existing law provides for the Medi-Cal program, administered by the State Department of Health Care Services, under which health care services are provided to qualified low-income recipients. One of the methods by which these services are provided is pursuant to contracts with various types of managed care plans.

This bill would, until January 1, 2011, impose that tax on the total operating revenue, as specified, of a Medi-Cal managed care plan, as defined. The proceeds from the tax would be continuously appropriated (1) to the department for purposes of the Medi-Cal program in an amount equal to 38.41% of the proceeds from the tax and (2) to the Managed Risk Medical Insurance Board for purposes of the Healthy Families Program in an amount equal to 61.59% of the proceeds from the tax.

The bill would provide that the tax on Medi-Cal managed care plans would have no force or effect if any of specified conditions apply.

Existing law requires every return required to be filed with the State Insurance Commissioner pursuant to provisions governing taxes on the gross premiums of insurers to be signed by the insurer or an executive officer of the insurer and to be made under oath or contain a written declaration that it is made under penalty of perjury.

This bill would also require Medi-Cal managed care plans to file returns with the commissioner under oath or with a written declaration that is made under penalty of perjury. By expanding the crime of perjury, this bill would impose a state-mandated local program.

Existing law creates the Healthy Families Program, administered by the Managed Risk Medical Insurance Board, to arrange for the provision of health care services to children less than 19 years of age who meet certain criteria, including having a limited gross household income. Existing law requires families with children participating in the program to pay specified family contribution amounts.

This bill would, commencing November 1, 2009, increase the amounts to be paid for the family contributions. This bill would require the Healthy Families Program to provide prior notice to any applicant for a subscriber whose premium will increase as a result of the increases in the family contribution amounts and would require the program to provide the applicant with an opportunity to demonstrate that, based on reduced family income, the subscriber is subject to a lower premium pursuant to the above-described provisions.

The California Children and Families Act of 1998, an initiative measure approved by the voters as Proposition 10 at the November 3, 1998, statewide general election, requires that the California Children and Families Program, established by the act, be funded by certain taxes imposed on the sale and distribution of cigarettes and tobacco products, that revenues be deposited into the California Children and Families Trust Fund, and that the fund be used for the implementation of comprehensive early childhood development and smoking prevention programs. Existing law provides that 20% of moneys allocated and appropriated from the trust fund shall be deposited, in accordance with a prescribed formula, in specified accounts, including the Unallocated Account, for expenditure by the California Children and Families Commission, also known as First 5 California, for various subjects relating to, and furthering the goals and purposes of, the act. Existing law prohibits amendment of this initiative measure by the Legislature unless the amendment is approved by the voters, or the amendment is accomplished by a vote of $\frac{2}{3}$ of the membership of both houses of the Legislature and the amendment furthers the act and is consistent with its purposes.

This bill would provide that any funds not needed in specified accounts may be transferred to the Unallocated Account upon approval of the commission. The bill would make a legislative finding and declaration that these changes further the goals and purposes of that act.

This bill would require the Director of Finance to make the necessary budgetary adjustments to allow the expenditure of funds allocated by the commission pursuant to the above provisions.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 130105 of the Health and Safety Code is amended to read:

130105. The California Children and Families Trust Fund is hereby created in the State Treasury.

(a) The California Children and Families Trust Fund shall consist of moneys collected pursuant to the taxes imposed by Section 30131.2 of the Revenue and Taxation Code.

(b) All costs to implement this act shall be paid from moneys deposited in the California Children and Families Trust Fund.

(c) The State Board of Equalization shall determine within one year of the passage of this act the effect that additional taxes imposed on cigarettes and tobacco products by this act has on the consumption of cigarettes and tobacco products in this state. To the extent that a decrease in consumption is determined by the State Board of Equalization to be the direct result of additional taxes imposed by this act, the State Board of Equalization shall determine the fiscal effect the decrease in consumption has on the funding of any Proposition 99 (the Tobacco Tax and Health Protection Act of 1988) state health-related education or research programs in effect as of November 1, 1998, and the Breast Cancer Fund programs that are funded by excise taxes on cigarettes and tobacco products. Funds shall be transferred from the California Children and Families Trust Fund to those affected programs as necessary to offset the revenue decrease directly resulting from the imposition of additional taxes by this act. These reimbursements shall occur, and at any times, as determined necessary to further the intent of this subdivision.

(d) Moneys shall be allocated and appropriated from the California Children and Families Trust Fund as follows:

(1) Twenty percent shall be allocated and appropriated to separate accounts of the state commission for expenditure according to the following formula:

(A) Six percent shall be deposited in a Mass Media Communications Account for expenditures for communications to the general public utilizing television, radio, newspapers, and other mass media on subjects relating to and furthering the goals and purposes of this act, including, but not limited to, methods of nurturing and parenting that encourage proper childhood development, the informed selection of child care, information regarding health and social services, the prevention and cessation of tobacco, alcohol, and drug use by pregnant women, the detrimental effects of secondhand smoke on early childhood development, and to ensure that children are ready to enter school. Any funds not needed in this account may be

transferred to the Unallocated Account described in subparagraph (F), upon approval by the state commission.

(B) Five percent shall be deposited in an Education Account for expenditures to ensure that children are ready to enter school and for programs relating to education, including, but not limited to, the development of educational materials, professional and parental education and training, and technical support for county commissions in the areas described in subparagraph (A) of paragraph (1) of subdivision (b) of Section 130125. Any funds not needed in this account may be transferred to the Unallocated Account described in subparagraph (F), upon approval by the state commission.

(C) Three percent shall be deposited in a Child Care Account for expenditures to ensure that children are ready to enter school and for programs relating to child care, including, but not limited to, the education and training of child care providers, the development of educational materials and guidelines for child care workers, and other areas described in subparagraph (B) of paragraph (1) of subdivision (b) of Section 130125. Any funds not needed in this account may be transferred to the Unallocated Account described in subparagraph (F), upon approval by the state commission.

(D) Three percent shall be deposited in a Research and Development Account for expenditures to ensure that children are ready to enter school and for the research and development of best practices and standards for all programs and services relating to early childhood development established pursuant to this act, and for the assessment and quality evaluation of those programs and services. Any funds not needed in this account may be transferred to the Unallocated Account described in subparagraph (F), upon approval by the state commission.

(E) One percent shall be deposited in an Administration Account for expenditures for the administrative functions of the state commission. Any funds not needed for the administrative functions of the state commission may be transferred to the Unallocated Account described in subparagraph (F), upon approval by the state commission.

(F) Two percent shall be deposited in an Unallocated Account for expenditure by the state commission for any of the purposes of this act described in Section 130100 provided that none of these moneys shall be expended for the administrative functions of the state commission.

(G) In the event that, for whatever reason, the expenditure of any moneys allocated and appropriated for the purposes specified in subparagraphs (A) to (F), inclusive, is enjoined by a final judgment of a court of competent jurisdiction, then those moneys shall be available for expenditure by the state commission for mass media communication emphasizing the need to eliminate smoking and other tobacco use by pregnant women, the need to eliminate smoking and other tobacco use by persons under 18 years of age, and the need to eliminate exposure to secondhand smoke.

(H) Any moneys allocated and appropriated to any of the accounts described in subparagraphs (A) to (F), inclusive, that are not encumbered

or expended within any applicable period prescribed by law shall (together with the accrued interest on the amount) revert to and remain in the same account for the next fiscal period.

(2) Eighty percent shall be allocated and appropriated to county commissions in accordance with Section 130140.

(A) The moneys allocated and appropriated to county commissions shall be deposited in each local Children and Families Trust Fund administered by each county commission, and shall be expended only for the purposes authorized by this act and in accordance with the county strategic plan approved by each county commission.

(B) Any moneys allocated and appropriated to any of the county commissions that are not encumbered or expended within any applicable period prescribed by law shall (together with the accrued interest on the amount) revert to and remain in the same local Children and Families Trust Fund for the next fiscal period under the same conditions as set forth in subparagraph (A).

(e) All grants, gifts, or bequests of money made to or for the benefit of the state commission from public or private sources to be used for early childhood development programs shall be deposited in the California Children and Families Trust Fund and expended for the specific purpose for which the grant, gift, or bequest was made. The amount of any such grant, gift, or bequest shall not be considered in computing the amount allocated and appropriated to the state commission pursuant to paragraph (1) of subdivision (d).

(f) All grants, gifts, or bequests of money made to or for the benefit of any county commission from public or private sources to be used for early childhood development programs shall be deposited in the local Children and Families Trust Fund and expended for the specific purpose for which the grant, gift, or bequest was made. The amount of any such grant, gift, or bequest shall not be considered in computing the amount allocated and appropriated to the county commissions pursuant to paragraph (2) of subdivision (d).

SEC. 2. Section 12693.22 is added to the Insurance Code, to read:

12693.22. During the 2009–10 and 2010–11 fiscal years, the adoption and readoption of regulations to modify health, dental, and vision benefits or otherwise modify program requirements and operations consistent with the provisions of this part shall be deemed to be an emergency and necessary for the immediate preservation of public peace, health and safety, or general welfare for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the board is hereby exempted from the requirement that it describe facts showing the need for immediate action and from review by the Office of Administrative Law.

SEC. 3. Section 12693.43 of the Insurance Code is amended to read:

12693.43. (a) Applicants applying to the purchasing pool shall agree to pay family contributions, unless the applicant has a family contribution sponsor. Family contribution amounts consist of the following two components:

(1) The flat fees described in subdivision (b) or (d).

(2) Any amounts that are charged to the program by participating health, dental, and vision plans selected by the applicant that exceed the cost to the program of the highest cost Family Value Package in a given geographic area.

(b) In each geographic area, the board shall designate one or more Family Value Packages for which the required total family contribution is:

(1) Seven dollars (\$7) per child with a maximum required contribution of fourteen dollars (\$14) per month per family for applicants with annual household incomes up to and including 150 percent of the federal poverty level.

(2) (A) Nine dollars (\$9) per child with a maximum required contribution of twenty-seven dollars (\$27) per month per family for applicants with annual household incomes greater than 150 percent and up to and including 200 percent of the federal poverty level and for applicants on behalf of children described in clause (ii) of subparagraph (A) of paragraph (6) of subdivision (a) of Section 12693.70.

(B) Commencing the first day of the fifth month following the enactment of the 2008–09 Budget Act, the family contribution pursuant to this paragraph shall be twelve dollars (\$12) per child with a maximum required contribution of thirty-six dollars (\$36) per month per family.

(C) Commencing November 1, 2009, the family contribution pursuant to this paragraph shall be sixteen dollars (\$16) per child with a maximum required contribution of forty-eight dollars (\$48) per month per family.

(3) (A) On and after July 1, 2005, fifteen dollars (\$15) per child with a maximum required contribution of forty-five dollars (\$45) per month per family for applicants with annual household income to which subparagraph (B) of paragraph (6) of subdivision (a) of Section 12693.70 is applicable. Notwithstanding any other provision of law, if an application with an effective date prior to July 1, 2005, was based on annual household income to which subparagraph (B) of paragraph (6) of subdivision (a) of Section 12693.70 is applicable, then this subparagraph shall be applicable to the applicant on July 1, 2005, unless subparagraph (B) of paragraph (6) of subdivision (a) of Section 12693.70 is no longer applicable to the relevant family income. The program shall provide prior notice to any applicant for currently enrolled subscribers whose premium will increase on July 1, 2005, pursuant to this subparagraph and, prior to the date the premium increase takes effect, shall provide that applicant with an opportunity to demonstrate that subparagraph (B) of paragraph (6) of subdivision (a) of Section 12693.70 is no longer applicable to the relevant family income.

(B) Commencing the first day of the fifth month following the enactment of the 2008–09 Budget Act, the family contribution pursuant to this paragraph shall be seventeen dollars (\$17) per child with a maximum required contribution of fifty-one dollars (\$51) per month per family.

(C) Commencing November 1, 2009, the family contribution pursuant to this paragraph shall be twenty-four dollars (\$24) per child with a

maximum required contribution of seventy-two dollars (\$72) per month per family.

(c) Combinations of health, dental, and vision plans that are more expensive to the program than the highest cost Family Value Package may be offered to and selected by applicants. However, the cost to the program of those combinations that exceeds the price to the program of the highest cost Family Value Package shall be paid by the applicant as part of the family contribution.

(d) The board shall provide a family contribution discount to those applicants who select the health plan in a geographic area that has been designated as the Community Provider Plan. The discount shall reduce the portion of the family contribution described in subdivision (b) to the following:

(1) A family contribution of four dollars (\$4) per child with a maximum required contribution of eight dollars (\$8) per month per family for applicants with annual household incomes up to and including 150 percent of the federal poverty level.

(2) (A) Six dollars (\$6) per child with a maximum required contribution of eighteen dollars (\$18) per month per family for applicants with annual household incomes greater than 150 percent and up to and including 200 percent of the federal poverty level and for applicants on behalf of children described in clause (ii) of subparagraph (A) of paragraph (6) of subdivision (a) of Section 12693.70.

(B) Commencing the first day of the fifth month following the enactment of the 2008–09 Budget Act, the family contribution pursuant to this paragraph shall be nine dollars (\$9) per child with a maximum required contribution of twenty-seven dollars (\$27) per month per family.

(C) Commencing November 1, 2009, the family contribution pursuant to this paragraph shall be thirteen dollars (\$13) per child with a maximum required contribution of thirty-nine dollars (\$39) per month per family.

(3) (A) On and after July 1, 2005, twelve dollars (\$12) per child with a maximum required contribution of thirty-six dollars (\$36) per month per family for applicants with annual household income to which subparagraph (B) of paragraph (6) of subdivision (a) of Section 12693.70 is applicable. Notwithstanding any other provision of law, if an application with an effective date prior to July 1, 2005, was based on annual household income to which subparagraph (B) of paragraph (6) of subdivision (a) of Section 12693.70 is applicable, then this subparagraph shall be applicable to the applicant on July 1, 2005, unless subparagraph (B) of paragraph (6) of subdivision (a) of Section 12693.70 is no longer applicable to the relevant family income. The program shall provide prior notice to any applicant for currently enrolled subscribers whose premium will increase on July 1, 2005, pursuant to this subparagraph and, prior to the date the premium increase takes effect, shall provide that applicant with an opportunity to demonstrate that subparagraph (B) of paragraph (6) of subdivision (a) of Section 12693.70 is no longer applicable to the relevant family income.

(B) Commencing the first day of the fifth month following the enactment of the 2008–09 Budget Act, the family contribution pursuant to this paragraph shall be fourteen dollars (\$14) per child with a maximum required contribution of forty-two dollars (\$42) per month per family.

(C) Commencing November 1, 2009, the family contribution pursuant to this paragraph shall be twenty-one dollars (\$21) per child with a maximum required contribution of sixty-three dollars (\$63) per month per family.

(e) Applicants, but not family contribution sponsors, who pay three months of required family contributions in advance shall receive the fourth consecutive month of coverage with no family contribution required.

(f) Applicants, but not family contribution sponsors, who pay the required family contributions by an approved means of electronic fund transfer shall receive a 25-percent discount from the required family contributions.

(g) It is the intent of the Legislature that the family contribution amounts described in this section comply with the premium cost sharing limits contained in Section 2103 of Title XXI of the Social Security Act. If the amounts described in subdivision (a) are not approved by the federal government, the board may adjust these amounts to the extent required to achieve approval of the state plan.

(h) The adoption and one readoption of regulations to implement paragraph (3) of subdivision (b) and paragraph (3) of subdivision (d) shall be deemed to be an emergency and necessary for the immediate preservation of public peace, health, and safety, or general welfare for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the board is hereby exempted from the requirement that it describe specific facts showing the need for immediate action and from review by the Office of Administrative Law. For purpose of subdivision (e) of Section 11346.1 of the Government code, the 120-day period, as applicable to the effective period of an emergency regulatory action and submission of specified materials to the Office of Administrative law, is hereby extended to 180 days.

(i) The board may adopt, and may only one-time readopt, regulations to implement the changes to this section that are effective the first day of the fifth month following the enactment of the 2008–09 Budget Act. The adoption and one-time readoption of a regulation authorized by this section is deemed to address an emergency, for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the board is hereby exempted for this purpose from the requirements of subdivision (b) of Section 11346.1 of the Government Code.

(j) The program shall provide prior notice to any applicant for a subscriber whose premium will increase as a result of amendments made to this section by the act that added this subdivision and shall provide the applicant with an opportunity to demonstrate that, based on reduced family income, the subscriber is subject to a lower premium pursuant to this section.

SEC. 4. Section 12009 is added to the Revenue and Taxation Code, to read:

12009. (a) “Medi-Cal managed care plan” or “plan” means any individual, organization, or entity, other than an insurer as described in Section 12003 or a dental managed care plan as described in Section 14087.46 of the Welfare and Institutions Code, that enters into a contract with the State Department of Health Care Services pursuant to Article 2.7 (commencing with Section 14087.3), Article 2.8 (commencing with Section 14087.5), Article 2.81 (commencing with Section 14087.96), Article 2.9 (commencing with Section 14088), or Article 2.91 (commencing with Section 14089) of Chapter 7 of, or pursuant to Article 1 (commencing with Section 14200) or Article 7 (commencing with Section 14490) of Chapter 8 of, Part 3 of Division 9 of the Welfare and Institutions Code.

(b) This section shall remain in effect only until January 1, 2011, and as of that date is repealed.

SEC. 5. Section 12201 of the Revenue and Taxation Code is amended to read:

12201. (a) Every insurer and Medi-Cal managed care plan doing business in this state shall annually pay to the state a tax on the bases, at the rates, and subject to the deductions from the tax hereinafter specified. For purposes of the tax imposed by this chapter, “insurer” shall be deemed to include a home protection company as defined in Section 12740 of the Insurance Code.

(b) Notwithstanding Section 13340 of the Government Code, the revenues derived from the imposition of the tax by this chapter on Medi-Cal managed care plans are hereby continuously appropriated as follows:

(1) To the State Department of Health Care Services for purposes of the Medi-Cal program in an amount equal to 38.41 percent of the total revenues derived from the imposition of the tax by this chapter on Medi-Cal managed care plans.

(2) To the Managed Risk Medical Insurance Board for purposes of the Healthy Families Program in an amount equal to 61.59 percent of the total revenues derived from the imposition of the tax by this chapter on Medi-Cal managed care plans

(c) For purposes of imposing the tax on Medi-Cal managed care plans during the 2009 calendar year, the tax shall be based on total revenue for the period of January 1, 2009, to December 31, 2009, inclusive.

(d) The Insurance Commissioner shall report the amount of revenue derived from the tax imposed on Medi-Cal managed care plans pursuant to this section to the California Health and Human Services Agency, the Joint Legislative Budget Committee, and the Department of Finance.

(e) This section shall remain in effect only until January 1, 2011, and as of that date is repealed.

SEC. 6. Section 12201 is added to the Revenue and Taxation Code, to read:

12201. (a) Every insurer doing business in this state shall annually pay to the state a tax on the bases, at the rates, and subject to the deductions from the tax hereinafter specified. For purposes of the tax imposed by this

chapter, “insurer” shall be deemed to include a home protection company as defined in Section 12740 of the Insurance Code.

(b) This section shall become operative on January 1, 2011.

SEC. 7. Section 12204 of the Revenue and Taxation Code is amended to read:

12204. (a) The tax imposed on insurers by this chapter is in lieu of all other taxes and licenses, state, county, and municipal, upon those insurers and their property, except:

(1) Taxes upon their real estate.

(2) Any retaliatory exactions imposed by paragraph (3) of subdivision (f) of Section 28 of Article XIII of the Constitution.

(3) The tax on ocean marine insurance.

(4) Motor vehicle and other vehicle registration license fees and any other tax or license fee imposed by the state upon vehicles, motor vehicles or the operation thereof.

(5) That each corporate or other attorney in fact of a reciprocal or interinsurance exchange shall be subject to all taxes imposed upon corporations or others doing business in the state, other than taxes on income derived from its principal business as attorney in fact.

(b) This section shall not apply to any Medi-Cal managed care plan and to any tax imposed on that plan by this chapter.

(c) This section shall remain in effect only until January 1, 2011, and as of that date is repealed.

SEC. 8. Section 12204 is added to the Revenue and Taxation Code, to read:

12204. (a) The tax imposed on insurers by this chapter is in lieu of all other taxes and licenses, state, county, and municipal, upon those insurers and their property, except:

(1) Taxes upon their real estate.

(2) Any retaliatory exactions imposed by paragraph (3) of subdivision (f) of Section 28 of Article XIII of the California Constitution.

(3) The tax on ocean marine insurance.

(4) Motor vehicle and other vehicle registration license fees and any other tax or license fee imposed by the state upon vehicles, motor vehicles or the operation thereof.

(5) That each corporate or other attorney in fact of a reciprocal or interinsurance exchange shall be subject to all taxes imposed upon corporations or others doing business in the state, other than taxes on income derived from its principal business as attorney in fact.

(b) This section shall become operative on January 1, 2011.

SEC. 9. Section 12207 is added to the Revenue and Taxation Code, to read:

12207. (a) Notwithstanding any other provision of this part, no credit shall be allowed under Section 12206, 12208, or 12209 against the tax imposed on Medi-Cal managed care plans pursuant to Section 12201.

(b) This section shall remain in effect only until January 1, 2011, and as of that date is repealed.

SEC. 10. Article 4 (commencing with Section 12240) is added to Chapter 3 of Part 7 of Division 2 of the Revenue and Taxation Code, to read:

Article 4. Basis of Tax for Medi-Cal Managed Care Plans

12240. In the case of a Medi-Cal managed care plan, the basis of the tax is, in respect to each year, total operating revenue.

12241. For purposes of this article, “total operating revenue” means all amounts received by a Medi-Cal managed care plan in premium or capitation payments for the coverage or provision of all health care services, including, but not limited to, Medi-Cal services. Total operating revenue shall not include amounts received by a Medi-Cal managed care plan pursuant to a subcontract with a Medi-Cal managed care plan to provide health care services to Medi-Cal beneficiaries.

12242. This article shall remain in effect only until January 1, 2011, and as of that date is repealed.

SEC. 11. Section 12251 of the Revenue and Taxation Code is amended to read:

12251. (a) For the calendar year 1970, and each calendar year thereafter, insurers transacting insurance in this state and whose annual tax for the preceding calendar year was five thousand dollars (\$5,000) or more shall make prepayments of the annual tax for the current calendar year imposed by Section 28 of Article XIII of the California Constitution and this part, provided that no prepayments shall be made with respect to the tax on ocean marine insurance underwriting profit or any retaliatory tax.

(b) Medi-Cal managed care plans shall make prepayments of the tax imposed by Section 12201 for the current calendar year, except that no prepayments shall be required prior to the effective date of the act adding this subdivision, and no penalties and interest shall be imposed pursuant to Section 12261 for not making those prepayments.

(c) This section shall remain in effect only until January 1, 2011, and as of that date is repealed.

SEC. 12. Section 12251 is added to the Revenue and Taxation Code, to read:

12251. (a) For the calendar year 1970, and each calendar year thereafter, insurers transacting insurance in this state and whose annual tax for the preceding calendar year was five thousand dollars (\$5,000) or more shall make prepayments of the annual tax for the current calendar year imposed by Section 28 of Article XIII of the California Constitution and this part, provided that no prepayments shall be made with respect to the tax on ocean marine insurance underwriting profit or any retaliatory tax.

(b) This section shall become operative on January 1, 2011.

SEC. 13. Section 12253 of the Revenue and Taxation Code is amended to read:

12253. (a) Each insurer and Medi-Cal managed care plan required to make prepayments shall remit them on or before each of the dates of April

1st, June 1st, September 1st, and December 1st of the current calendar year. Remittances for prepayments shall be made payable to the Controller and shall be delivered to the office of the commissioner, accompanied by a prepayment form prescribed by the commissioner.

(b) This section shall remain in effect only until January 1, 2011, and as of that date is repealed.

SEC. 14. Section 12253 is added to the Revenue and Taxation Code, to read:

12253. (a) Each insurer required to make prepayments shall remit them on or before each of the dates of April 1st, June 1st, September 1st, and December 1st of the current calendar year. Remittances for prepayments shall be made payable to the Controller and shall be delivered to the office of the commissioner, accompanied by a prepayment form prescribed by the commissioner.

(b) This section shall become operative on January 1, 2011.

SEC. 15. Section 12254 of the Revenue and Taxation Code is amended to read:

12254. (a) (1) For each insurer, the amount of each prepayment shall be 25 percent of the amount of the annual insurance tax liability reported on the return of the insurer for the preceding calendar year.

(2) For each Medi-Cal managed care plan, the amount of each prepayment shall be 25 percent of the amount of tax the plan estimates as the amount of tax imposed by Section 12201 with respect to the plan.

(b) In establishing the prepayment amount of an insurer that has acquired the business of another insurer, the amount of tax liability of the acquiring insurer reported for the preceding calendar year shall be deemed to include the amount of tax liability of the acquired insurer reported for that year.

(c) This section shall remain in effect only until January 1, 2011, and as of that date is repealed.

SEC. 16. Section 12254 is added to the Revenue and Taxation Code, to read:

12254. (a) The amount of each prepayment shall be 25 percent of the amount of the annual insurance tax liability reported on the return of the insurer for the preceding calendar year.

(b) In establishing the prepayment amount of an insurer that has acquired the business of another insurer, the amount of tax liability of the acquiring insurer reported for the preceding calendar year shall be deemed to include the amount of tax liability of the acquired insurer reported for that year.

(c) This section shall become operative on January 1, 2011.

SEC. 17. Section 12257 of the Revenue and Taxation Code is amended to read:

12257. (a) If the total amount of prepayments for any calendar year exceeds the amount of annual tax for that year, the excess shall be treated as an overpayment of annual tax and, at the election of the insurer or Medi-Cal managed care plan, may be credited against the amounts due and payable for the first prepayment of the following year. Any amount of the

overpayment not so credited shall be allowed as a credit or refund under Article 2 (commencing with Section 12977) of Chapter 7 of this part.

(b) This section shall remain in effect only until January 1, 2011, and as of that date is repealed.

SEC. 18. Section 12257 is added to the Revenue and Taxation Code, to read:

12257. (a) If the total amount of prepayments for any calendar year exceeds the amount of annual tax for that year, the excess shall be treated as an overpayment of annual tax and, at the election of the insurer, may be credited against the amounts due and payable for the first prepayment of the following year. Any amount of the overpayment not so credited shall be allowed as a credit or refund under Article 2 (commencing with Section 12977) of Chapter 7 of this part.

(b) This section shall become operative on January 1, 2011.

SEC. 19. Section 12258 of the Revenue and Taxation Code is amended to read:

12258. (a) Any insurer or Medi-Cal managed care plan that fails to pay any prepayment within the time required shall pay a penalty of 10 percent of the amount of the required prepayment, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the due date of the prepayment until the date of payment but not for any period after the due date of the annual tax. Assessments of prepayment deficiencies may be made in the manner provided by deficiency assessments of the annual tax.

(b) This section shall remain in effect only until January 1, 2011, and as of that date is repealed.

SEC. 20. Section 12258 is added to the Revenue and Taxation Code, to read:

12258. (a) Any insurer that fails to pay any prepayment within the time required shall pay a penalty of 10 percent of the amount of the required prepayment, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the due date of the prepayment until the date of payment but not for any period after the due date of the annual tax. Assessments of prepayment deficiencies may be made in the manner provided by deficiency assessments of the annual tax.

(b) This section shall become operative on January 1, 2011.

SEC. 21. Section 12260 of the Revenue and Taxation Code is amended to read:

12260. (a) Notwithstanding any other provision of this article, the commissioner may relieve an insurer or Medi-Cal managed care plan of its obligation to make prepayments where the insurer or Medi-Cal managed care plan establishes to the satisfaction of the commissioner that the insurer has ceased to transact insurance in this state or the Medi-Cal managed care plan has ceased to operate a plan in this state, or the insurer's or Medi-Cal managed care plan's annual tax for the current year will be less than five thousand dollars (\$5,000).

(b) This section shall remain in effect only until January 1, 2011, and as of that date is repealed.

SEC. 22. Section 12260 is added to the Revenue and Taxation Code, to read:

12260. Notwithstanding any other provision of this article, the commissioner may relieve an insurer of its obligation to make prepayments where the insurer establishes to the satisfaction of the commissioner that either the insurer has ceased to transact insurance in this state, or the insurer's annual tax for the current year will be less than five thousand dollars (\$5,000).

(b) This section shall become operative on January 1, 2011.

SEC. 23. Section 12301 of the Revenue and Taxation Code is amended to read:

12301. (a) The taxes imposed upon insurers by Section 28 of Article XIII of the California Constitution and this part, except with respect to taxes on ocean marine insurance and retaliatory taxes, are due and payable annually on or before April 1st of the year following the calendar year in which the insurer engaged in the business of insurance or transacted insurance in this state. The taxes imposed with respect to ocean marine insurance are due and payable on or before June 15th of that year.

(b) With respect to Medi-Cal managed care plans, the taxes imposed by Section 12201 shall be due and payable on or before April 1st of the year following the calendar year in which the plan contracted with the State Department of Health Care Services as described in Section 12009.

(c) This section shall remain in effect only until January 1, 2011, and as of that date is repealed. However, any tax imposed by Section 12201 shall continue to be due and payable until the tax is paid.

SEC. 24. Section 12301 is added to the Revenue and Taxation Code, to read:

12301. (a) The taxes imposed upon insurers by Section 28 of Article XIII of the California Constitution and this part, except with respect to taxes on ocean marine insurance and retaliatory taxes, are due and payable annually on or before April 1st of the year following the calendar year in which the insurer engaged in the business of insurance or transacted insurance in this state. The taxes imposed with respect to ocean marine insurance are due and payable on or before June 15th of that year.

(b) This section shall become operative on January 1, 2011.

SEC. 25. Section 12302 of the Revenue and Taxation Code is amended to read:

12302. (a) On or before April 1st (or June 15th with respect to taxes on ocean marine insurance) every person that is subject to any tax imposed by Section 28 of Article XIII of the California Constitution or this part, in respect to the preceding calendar year shall file, in duplicate, a tax return with the commissioner in the form as the commissioner may prescribe. The return shall show that information pertaining to its insurance business, or in the case of a Medi-Cal managed care plan, pertaining to contracts for providing services as described in Section 12009, in this state as will reflect

the basis of its tax as set forth in Chapter 2 (commencing with Section 12071) and Chapter 3 (commencing with Section 12201) of this part, the computation of the amount of tax for the period covered by the return, the total amount of any tax prepayments made pursuant to Article 5 (commencing with Section 12251) of Chapter 3 of this part, and any other information as the commissioner may require to carry out the purposes of this part. Separate returns shall be filed with respect to the following kinds of insurance:

- (1) Life insurance (or life insurance and disability insurance).
- (2) Ocean marine insurance.
- (3) Title insurance.
- (4) Insurance other than life insurance (or life insurance and disability insurance), ocean marine insurance or title insurance.

(b) This section shall remain in effect only until January 1, 2011, and as of that date is repealed.

SEC. 26. Section 12302 is added to the Revenue and Taxation Code, to read:

12302. (a) On or before April 1st (or June 15th with respect to taxes on ocean marine insurance) every person that is subject to any tax imposed by Section 28 of Article XIII of the California Constitution or this part, in respect to the preceding calendar year shall file, in duplicate, an insurance tax return with the commissioner in the form as the commissioner may prescribe. The return shall show that information pertaining to its insurance business, or in the case of a Medi-Cal managed care plan, pertaining to its total operating revenue as defined in Section 12241, in this state as will reflect the basis of its tax as set forth in Chapter 2 (commencing with Section 12071) and Chapter 3 (commencing with Section 12201) of this part, the computation of the amount of tax for the period covered by the return, the total amount of any tax prepayments made pursuant to Article 5 (commencing with Section 12251) of Chapter 3 of this part, and any other information as the commissioner may require to carry out the purposes of this part. Separate returns shall be filed with respect to the following kinds of insurance:

- (1) Life insurance (or life insurance and disability insurance).
- (2) Ocean marine insurance.
- (3) Title insurance.
- (4) Insurance other than life insurance (or life insurance and disability insurance), ocean marine insurance or title insurance.

(b) This section shall become operative on January 1, 2011.

SEC. 27. Section 12303 of the Revenue and Taxation Code is amended to read:

12303. (a) Every return required by this article to be filed with the commissioner shall be signed by the insurer or Medi-Cal managed care plan or an executive officer of the insurer or plan and shall be made under oath or contain a written declaration that it is made under penalty of perjury. A return of a foreign insurer may be signed and verified by its manager residing

within this state. A return of an alien insurer may be signed and verified by the United States manager of the insurer.

(b) This section shall remain in effect only until January 1, 2011, and as of that date is repealed.

SEC. 28. Section 12303 is added to the Revenue and Taxation Code, to read:

12303. (a) Every return required by this article to be filed with the commissioner shall be signed by the insurer or an executive officer of the insurer and shall be made under oath or contain a written declaration that it is made under penalty of perjury. A return of a foreign insurer may be signed and verified by its manager residing within this state. A return of an alien insurer may be signed and verified by the United States manager of the insurer.

(b) This section shall become operative on January 1, 2011.

SEC. 29. Section 12304 of the Revenue and Taxation Code is amended to read:

12304. (a) Blank forms of returns shall be furnished by the commissioner on application, but failure to secure the form shall not relieve any insurer or Medi-Cal managed care plan from making or filing a timely return.

(b) This section shall remain in effect only until January 1, 2011, and as of that date is repealed.

SEC. 30. Section 12304 is added to the Revenue and Taxation Code, to read:

12304. (a) Blank forms of returns shall be furnished by the commissioner on application, but failure to secure the form shall not relieve any insurer from making or filing a timely return.

(b) This section shall become operative on January 1, 2011.

SEC. 31. Section 12305 of the Revenue and Taxation Code is amended to read:

12305. (a) The insurer or Medi-Cal managed care plan required to file a return shall deliver the return in duplicate, together with a remittance payable to the Controller, for the amount of tax computed and shown thereon, less any prepayments made pursuant to Article 5 (commencing with Section 12251) of Chapter 3 of this part, to the office of the commissioner.

(b) This section shall remain in effect only until January 1, 2011, and as of that date is repealed.

SEC. 32. Section 12305 is added to the Revenue and Taxation Code, to read:

12305. (a) The insurer required to file a return shall deliver the return in duplicate, together with a remittance payable to the Controller, for the amount of tax computed and shown thereon, less any prepayments made pursuant to Article 5 (commencing with Section 12251) of Chapter 3 of this part, to the office of the commissioner.

(b) This section shall become operative on January 1, 2011.

SEC. 33. Section 12307 of the Revenue and Taxation Code is amended to read:

12307. (a) Any insurer or Medi-Cal managed care plan to which an extension is granted shall pay, in addition to the tax, interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from April 1st until the date of payment.

(b) This section shall remain in effect only until January 1, 2011, and as of that date is repealed.

SEC. 34. Section 12307 is added to the Revenue and Taxation Code, to read:

12307. (a) Any insurer that is granted an extension shall pay, in addition to the tax, interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from April 1st until the date of payment.

(b) This section shall become operative on January 1, 2011.

SEC. 35. Section 12412 of the Revenue and Taxation Code is amended to read:

12412. (a) Upon receipt of the duplicate copy of the return of an insurer or Medi-Cal managed care plan the board shall initially assess the tax in accordance with the data as reported by the insurer or Medi-Cal managed care plan on the return.

(b) This section shall remain in effect only until January 1, 2011, and as of that date is repealed.

SEC. 36. Section 12412 is added to the Revenue and Taxation Code, to read:

12412. (a) Upon receipt of the duplicate copy of the return of an insurer the board shall initially assess the tax in accordance with the data as reported by the insurer on the return.

(b) This section shall become operative on January 1, 2011.

SEC. 37. Section 12413 of the Revenue and Taxation Code is amended to read:

12413. (a) The board shall promptly transmit notice of its initial assessment to the commissioner and the Controller, and if the initial assessment differs from the amount computed by the insurer or Medi-Cal managed care plan, notice shall also be given to the insurer or Medi-Cal managed care plan.

(b) This section shall remain in effect only until January 1, 2011, and as of that date is repealed.

SEC. 38. Section 12413 is added to the Revenue and Taxation Code, to read:

12413. (a) The board shall promptly transmit notice of its initial assessment to the commissioner and the Controller, and if the initial assessment differs from the amount computed by the insurer, notice shall also be given to the insurer.

(b) This section shall become operative on January 1, 2011.

SEC. 39. Section 12421 of the Revenue and Taxation Code is amended to read:

12421. (a) As soon as practicable after an insurer's, surplus line broker's, or Medi-Cal managed care plan's return is filed, the commissioner shall

examine it, together with any information within his or her possession or that may come into his or her possession, and he or she shall determine the correct amount of tax of the insurer, surplus line broker, or Medi-Cal managed care plan.

(b) This section shall remain in effect only until January 1, 2011, and as of that date is repealed.

SEC. 40. Section 12421 is added to the Revenue and Taxation Code, to read:

12421. (a) As soon as practicable after an insurer's or surplus line broker's return is filed, the commissioner shall examine it, together with any information within his or her possession or that may come into his or her possession, and he or she shall determine the correct amount of tax of the insurer or surplus line broker.

(b) This section shall become operative on January 1, 2011.

SEC. 41. Section 12422 of the Revenue and Taxation Code is amended to read:

12422. (a) If the commissioner determines that the amount of tax disclosed by the insurer's tax return and assessed by the board is less than the amount of tax disclosed by his or her examination, he or she shall propose, in writing, to the board a deficiency assessment for the difference. The proposal shall set forth the basis for the deficiency assessment and the details of its computation.

(b) If the commissioner determines that the amount of tax disclosed by the surplus line broker's tax return is less than the amount of tax disclosed by his or her examination, he or she shall propose, in writing, to the board a deficiency assessment for the difference. The proposal shall set forth the basis for the deficiency assessment and the details of its computation.

(c) If the commissioner determines that the amount of tax disclosed by the Medi-Cal managed care plan's tax return is less than the amount of tax disclosed by his or her examination, he or she shall propose, in writing, to the board a deficiency assessment for the difference. The proposal shall set forth the basis for the deficiency assessment and the details of its computation.

(d) This section shall remain in effect only until January 1, 2011, and as of that date is repealed.

SEC. 42. Section 12422 is added to the Revenue and Taxation Code, to read:

12422. (a) If the commissioner determines that the amount of tax disclosed by the insurer's tax return and assessed by the board is less than the amount of tax disclosed by his or her examination, he or she shall propose, in writing, to the board a deficiency assessment for the difference. The proposal shall set forth the basis for the deficiency assessment and the details of its computation.

(b) If the commissioner determines that the amount of tax disclosed by the surplus line broker's tax return is less than the amount of tax disclosed by his or her examination, he or she shall propose, in writing, to the board

a deficiency assessment for the difference. The proposal shall set forth the basis for the deficiency assessment and the details of its computation.

(c) This section shall become operative on January 1, 2011.

SEC. 43. Section 12423 of the Revenue and Taxation Code is amended to read:

12423. (a) If an insurer, surplus line broker, or Medi-Cal managed care plan fails to file a return, the commissioner may require a return by mailing notice to the insurer, surplus line broker, or Medi-Cal managed care plan to file a return by a specified date or he or she may without requiring a return, or upon no return having been filed pursuant to the demand therefor, make an estimate of the amount of tax due for the calendar year or years in respect to which the insurer, surplus line broker, or Medi-Cal managed care plan failed to file the return. The estimate shall be made from any available information which is in the commissioner's possession or may come into his or her possession, and the commissioner shall propose, in writing, to the board a deficiency assessment for the amount of the estimated tax. The proposal shall set forth the basis of the estimate and the details of the computation of the tax.

(b) This section shall remain in effect only until January 1, 2011, and as of that date is repealed.

SEC. 44. Section 12423 is added to the Revenue and Taxation Code, to read:

12423. (a) If an insurer or surplus line broker fails to file a return, the commissioner may require a return by mailing notice to the insurer or surplus line broker to file a return by a specified date or he or she may without requiring a return, or upon no return having been filed pursuant to the demand therefor, make an estimate of the amount of tax due for the calendar year or years in respect to which the insurer or surplus line broker failed to file the return. The estimate shall be made from any available information which is in the commissioner's possession or may come into his or her possession, and the commissioner shall propose, in writing, to the board a deficiency assessment for the amount of the estimated tax. The proposal shall set forth the basis of the estimate and the details of the computation of the tax.

(b) This section shall become operative on January 1, 2011.

SEC. 45. Section 12427 of the Revenue and Taxation Code is amended to read:

12427. (a) The board shall promptly notify the insurer, surplus line broker, or Medi-Cal managed care plan of a deficiency assessment made against the insurer, surplus line broker, or Medi-Cal managed care plan.

(b) This section shall remain in effect only until January 1, 2011, and as of that date is repealed.

SEC. 46. Section 12427 is added to the Revenue and Taxation Code, to read:

12427. (a) The board shall promptly notify the insurer or surplus line broker of a deficiency assessment made against the insurer or surplus line broker.

(b) This section shall become operative on January 1, 2011.

SEC. 47. Section 12428 of the Revenue and Taxation Code is amended to read:

12428. (a) An insurer, surplus line broker, or Medi-Cal managed care plan against which a deficiency assessment is made under Section 12424 or 12425 may petition for redetermination of the deficiency assessment within 30 days after service upon the insurer, surplus line broker, or Medi-Cal managed care plan of the notice thereof, by filing with the board a written petition setting forth the grounds of objection to the deficiency assessment and the correction sought. At the time the petition is filed with the board, a copy of the petition shall be filed with the commissioner.

If a petition for redetermination is not filed within the period prescribed by this section, the deficiency assessment becomes final and due and payable at the expiration of that period.

(b) This section shall remain in effect only until January 1, 2011, and as of that date is repealed.

SEC. 48. Section 12428 is added to the Revenue and Taxation Code, to read:

12428. (a) An insurer or surplus line broker against which a deficiency assessment is made under Section 12424 or 12425 may petition for redetermination of the deficiency assessment within 30 days after service upon the insurer or surplus line broker of the notice thereof, by filing with the board a written petition setting forth the grounds of objection to the deficiency assessment and the correction sought. At the time the petition is filed with the board, a copy of the petition shall be filed with the commissioner.

If a petition for redetermination is not filed within the period prescribed by this section, the deficiency assessment becomes final and due and payable at the expiration of that period.

(b) This section shall become operative on January 1, 2011.

SEC. 49. Section 12429 of the Revenue and Taxation Code is amended to read:

12429. (a) If a petition for redetermination of a deficiency assessment is filed within the time allowed under Section 12428, the board shall reconsider the deficiency assessment and, if the insurer, surplus line broker, or Medi-Cal managed care plan has so requested in the petition, shall grant an oral hearing for the presentation of evidence and argument before the board or its authorized representative. The board shall give the petitioner and the commissioner at least 20 days' notice of the time and place of hearing. The hearing may be continued from time to time as may be necessary.

(b) This section shall remain in effect only until January 1, 2011, and as of that date is repealed.

SEC. 50. Section 12429 is added to the Revenue and Taxation Code, to read:

12429. (a) If a petition for redetermination of a deficiency assessment is filed within the time allowed under Section 12428, the board shall

reconsider the deficiency assessment and, if the insurer or surplus line broker has so requested in the petition, shall grant an oral hearing for the presentation of evidence and argument before the board or its authorized representative. The board shall give the petitioner and the commissioner at least 20 days' notice of the time and place of hearing. The hearing may be continued from time to time as may be necessary.

(b) This section shall become operative on January 1, 2011.

SEC. 51. Section 12431 of the Revenue and Taxation Code is amended to read:

12431. (a) The order or decision of the board upon a petition for redetermination of a deficiency assessment becomes final 30 days after service on the insurer, surplus line broker, or Medi-Cal managed care plan of a notice thereof, and any resulting deficiency assessment is due and payable at the time the order or decision becomes final.

(b) This section shall remain in effect only until January 1, 2011, and as of that date is repealed.

SEC. 52. Section 12431 is added to the Revenue and Taxation Code, to read:

12431. (a) The order or decision of the board upon a petition for redetermination of a deficiency assessment becomes final 30 days after service on the insurer or surplus line broker of a notice thereof, and any resulting deficiency assessment is due and payable at the time the order or decision becomes final.

(b) This section shall become operative on January 1, 2011.

SEC. 53. Section 12433 of the Revenue and Taxation Code is amended to read:

12433. (a) If before the expiration of the time prescribed in Section 12432 for giving of a notice of deficiency assessment the insurer, surplus line broker, or Medi-Cal managed care plan has consented in writing to the giving of the notice after that time, the notice may be given at any time prior to the expiration of the time agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(b) This section shall remain in effect only until January 1, 2011, and as of that date is repealed.

SEC. 54. Section 12433 is added to the Revenue and Taxation Code, to read:

12433. (a) If before the expiration of the time prescribed in Section 12432 for giving of a notice of deficiency assessment the insurer or surplus line broker has consented in writing to the giving of the notice after that time, the notice may be given at any time prior to the expiration of the time agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(b) This section shall become operative on January 1, 2011.

SEC. 55. Section 12434 of the Revenue and Taxation Code is amended to read:

12434. (a) Any notice required by this article shall be placed in a sealed envelope, with postage paid, addressed to the insurer, surplus line broker, or Medi-Cal managed care plan at its address as it appears in the records of the commissioner or the board. The giving of notice shall be deemed complete at the time of deposit of the notice in the United States Post Office, or a mailbox, subpost office, substation or mail chute or other facility regularly maintained or provided by the United States Postal Service, without extension of time for any reason. In lieu of mailing, a notice may be served personally by delivering to the person to be served and service shall be deemed complete at the time of the delivery. Personal service to a corporation may be made by delivery of a notice to any person designated in the Code of Civil Procedure to be served for the corporation with summons and complaint in a civil action.

(b) This section shall remain in effect only until January 1, 2011, and as of that date is repealed.

SEC. 56. Section 12434 is added to the Revenue and Taxation Code, to read:

12434. (a) Any notice required by this article shall be placed in a sealed envelope, with postage paid, addressed to the insurer or surplus line broker at its address as it appears in the records of the commissioner or the board. The giving of notice shall be deemed complete at the time of deposit of the notice in the United States Post Office, or a mailbox, subpost office, substation or mail chute or other facility regularly maintained or provided by the United States Postal Service, without extension of time for any reason. In lieu of mailing, a notice may be served personally by delivering to the person to be served and service shall be deemed complete at the time of the delivery. Personal service to a corporation may be made by delivery of a notice to any person designated in the Code of Civil Procedure to be served for the corporation with summons and complaint in a civil action.

(b) This section shall become operative on January 1, 2011.

SEC. 57. Section 12491 of the Revenue and Taxation Code is amended to read:

12491. (a) Every tax levied upon an insurer under Article XIII of the California Constitution and this part is a lien upon all property and franchises of every kind and nature belonging to the insurer, and has the effect of a judgment against the insurer.

(b) (1) Every tax levied upon a surplus line broker under Part 7.5 (commencing with Section 13201) of Division 2 is a lien upon all property and franchises of every kind and nature belonging to the surplus line broker, and has the effect of a judgment against the surplus line broker.

(2) A lien levied pursuant to this subdivision shall not exceed the amount of unpaid tax collected by the surplus line broker.

(c) (1) Every tax levied upon a Medi-Cal managed care plan under Chapter 1 (commencing with Section 12001) is a lien upon all property and franchises of every kind and nature belonging to the Medi-Cal managed care plan, and has the effect of a judgment against the Medi-Cal managed care plan.

(2) A lien levied pursuant to this subdivision shall not exceed the amount of unpaid tax collected by the Medi-Cal managed care plan.

(d) This section shall remain in effect only until January 1, 2011, and as of that date is repealed.

SEC. 58. Section 12491 is added to the Revenue and Taxation Code, to read:

12491. (a) Every tax levied upon an insurer under the provisions of Article XIII of the California Constitution and of this part is a lien upon all property and franchises of every kind and nature belonging to the insurer, and has the effect of a judgment against the insurer.

(b) (1) Every tax levied upon a surplus line broker under the provisions of Part 7.5 (commencing with Section 13201) of Division 2 is a lien upon all property and franchises of every kind and nature belonging to the surplus line broker, and has the effect of a judgment against the surplus line broker.

(2) A lien levied pursuant to this subdivision shall not exceed the amount of unpaid tax collected by the surplus line broker.

(c) This section shall become operative on January 1, 2011.

SEC. 59. Section 12493 of the Revenue and Taxation Code is amended to read:

12493. (a) Every lien has the effect of an execution duly levied against all property of a delinquent insurer, surplus line broker, or Medi-Cal managed care plan.

(b) This section shall remain in effect only until January 1, 2011, and as of that date is repealed.

SEC. 60. Section 12493 is added to the Revenue and Taxation Code, to read:

12493. (a) Every lien has the effect of an execution duly levied against all property of a delinquent insurer or surplus line broker.

(b) This section shall become operative on January 1, 2011.

SEC. 61. Section 12494 of the Revenue and Taxation Code is amended to read:

12494. (a) No judgment is satisfied nor lien removed until either:

(1) The taxes, interest, penalties, and costs are paid.

(2) The insurer's, surplus line broker's, or Medi-Cal managed care plan's property is sold for the payment thereof.

(b) This section shall remain in effect only until January 1, 2011, and as of that date is repealed.

SEC. 62. Section 12494 is added to the Revenue and Taxation Code, to read:

12494. (a) No judgment is satisfied nor lien removed until either:

(1) The taxes, interest, penalties, and costs are paid.

(2) The insurer's or surplus line broker's property is sold for the payment thereof.

(b) This section shall become operative on January 1, 2011.

SEC. 63. Section 12601 of the Revenue and Taxation Code is amended to read:

12601. (a) Amounts of taxes, interest, and penalties not remitted to the commissioner with the original return of the insurer or Medi-Cal managed care plan shall be payable to the Controller.

(b) This section shall remain in effect only until January 1, 2011, and as of that date is repealed.

SEC. 64. Section 12601 is added to the Revenue and Taxation Code, to read:

12601. (a) Amounts of taxes, interest, and penalties not remitted to the commissioner with the original return of the insurer shall be payable to the Controller.

(b) This section shall become operative on January 1, 2011.

SEC. 65. Section 12602 of the Revenue and Taxation Code is amended to read:

12602. (a) (1) On and after January 1, 1994, and before January 1, 1995, each insurer whose annual taxes exceed fifty thousand dollars (\$50,000) shall make payment by electronic funds transfer, as defined by Section 45 of the Insurance Code. On and after January 1, 1995, each insurer whose annual taxes exceed twenty thousand dollars (\$20,000) shall make payment by electronic funds transfer. The insurer shall choose one of the acceptable methods described in Section 45 of the Insurance Code for completing the electronic funds transfer.

(2) Each Medi-Cal managed care plan shall make payment by electronic funds transfer, as defined by Section 45 of the Insurance Code. The plan shall choose one of the acceptable methods described in Section 45 of the Insurance Code for completing the electronic funds transfer.

(b) Payment shall be deemed complete on the date the electronic funds transfer is initiated, if settlement to the state's demand account occurs on or before the banking day following the date the transfer is initiated. If settlement to the state's demand account does not occur on or before the banking day following the date the transfer is initiated, payment shall be deemed to occur on the date settlement occurs.

(c) (1) Any insurer or Medi-Cal managed care plan required to remit taxes by electronic funds transfer pursuant to this section that remits those taxes by means other than an appropriate electronic funds transfer, shall be assessed a penalty in an amount equal to 10 percent of the taxes due at the time of the payment.

(2) If the Department of Insurance finds that an insurer's or Medi-Cal managed care plan's failure to make payment by an appropriate electronic funds transfer in accordance with subdivision (a) is due to reasonable cause or circumstances beyond the insurer's or Medi-Cal managed care plan's control, and occurred notwithstanding the exercise of ordinary care and in the absence of willful neglect, that insurer or Medi-Cal managed care plan shall be relieved of the penalty provided in paragraph (1).

(3) Any insurer or Medi-Cal managed care plan seeking to be relieved of the penalty provided in paragraph (1) shall file with the Department of Insurance a statement under penalty of perjury setting forth the facts upon which the claim for relief is based.

(d) This section shall remain in effect only until January 1, 2011, and as of that date is repealed.

SEC. 66. Section 12602 is added to the Revenue and Taxation Code, to read:

12602. (a) On and after January 1, 1994, and before January 1, 1995, each insurer whose annual taxes exceed fifty thousand dollars (\$50,000) shall make payment by electronic funds transfer, as defined by Section 45 of the Insurance Code. On and after January 1, 1995, each insurer whose annual taxes exceed twenty thousand dollars (\$20,000) shall make payment by electronic funds transfer. The insurer shall choose one of the acceptable methods described in Section 45 of the Insurance Code for completing the electronic funds transfer.

(b) Payment shall be deemed complete on the date the electronic funds transfer is initiated, if settlement to the state's demand account occurs on or before the banking day following the date the transfer is initiated. If settlement to the state's demand account does not occur on or before the banking day following the date the transfer is initiated, payment shall be deemed to occur on the date settlement occurs.

(c) (1) Any insurer required to remit taxes by electronic funds transfer pursuant to this section that remits those taxes by means other than an appropriate electronic funds transfer, shall be assessed a penalty in an amount equal to 10 percent of the taxes due at the time of the payment.

(2) If the Department of Insurance finds that an insurer's failure to make payment by an appropriate electronic funds transfer in accordance with subdivision (a) is due to reasonable cause or circumstances beyond the insurer's control, and occurred notwithstanding the exercise of ordinary care and in the absence of willful neglect, that insurer shall be relieved of the penalty provided in paragraph (1).

(3) Any insurer seeking to be relieved of the penalty provided in paragraph (1) shall file with the Department of Insurance a statement under penalty of perjury setting forth the facts upon which the claim for relief is based.

(d) This section shall become operative on January 1, 2011.

SEC. 67. Section 12631 of the Revenue and Taxation Code is amended to read:

12631. (a) Any insurer or Medi-Cal managed care plan that fails to pay any tax, except a tax determined as a deficiency assessment by the board under Article 3 (commencing with Section 12421) of Chapter 4, within the time required, shall pay a penalty of 10 percent of the amount of the tax in addition to the tax, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the due date of the tax until the date of payment.

(b) This section shall remain in effect only until January 1, 2011, and as of that date is repealed.

SEC. 68. Section 12631 is added to the Revenue and Taxation Code, to read:

12631. (a) Any insurer that fails to pay any tax, except a tax determined as a deficiency assessment by the board under Article 3 (commencing with Section 12421) of Chapter 4, within the time required, shall pay a penalty of 10 percent of the amount of the tax in addition to the tax, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the due date of the tax until the date of payment.

(b) This section shall become operative on January 1, 2011.

SEC. 69. Section 12632 of the Revenue and Taxation Code is amended to read:

12632. (a) An insurer or Medi-Cal managed care plan that fails to pay any deficiency assessment when it becomes due and payable shall, in addition to the deficiency assessment, pay a penalty of 10 percent of the amount of the deficiency assessment, exclusive of interest and penalties. The amount of any deficiency assessment, exclusive of penalties, shall bear interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the amount, or any portion thereof, would have been payable if properly reported and assessed until the date of payment.

(b) This section shall remain in effect only until January 1, 2011, and as of that date is repealed.

SEC. 70. Section 12632 is added to the Revenue and Taxation Code, to read:

12632. (a) An insurer that fails to pay any deficiency assessment when it becomes due and payable shall, in addition to the deficiency assessment, pay a penalty of 10 percent of the amount of the deficiency assessment, exclusive of interest and penalties. The amount of any deficiency assessment, exclusive of penalties, shall bear interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the amount, or any portion thereof, would have been payable if properly reported and assessed until the date of payment.

(b) This section shall become operative on January 1, 2011.

SEC. 71. Section 12636 of the Revenue and Taxation Code is amended to read:

12636. (a) If the board finds that an insurer's or Medi-Cal managed care plan's failure to make a timely return or payment is due to reasonable cause and to circumstances beyond the insurer's or Medi-Cal managed care plan's control, and which occurred despite the exercise of ordinary care and in the absence of willful neglect, the insurer or Medi-Cal managed care plan may be relieved of the penalty provided by Section 12258, 12282, 12287, 12631, 12632, or 12633.

Any insurer or Medi-Cal managed care plan seeking to be relieved of the penalty shall file with the board a statement under penalty of perjury setting forth the facts upon which the claim for relief is based.

(b) This section shall remain in effect only until January 1, 2011, and as of that date is repealed.

SEC. 72. Section 12636 is added to the Revenue and Taxation Code, to read:

12636. (a) If the board finds that an insurer's failure to make a timely return or payment is due to reasonable cause and to circumstances beyond the insurer's control, and which occurred despite the exercise of ordinary care and in the absence of willful neglect, the insurer may be relieved of the penalty provided by Section 12258, 12282, 12287, 12631, 12632, or 12633.

Any insurer seeking to be relieved of the penalty shall file with the board a statement under penalty of perjury setting forth the facts upon which the claim for relief is based.

(b) This section shall become operative on January 1, 2011.

SEC. 73. Section 12636.5 of the Revenue and Taxation Code is amended to read:

12636.5. (a) Every payment on an insurer's, surplus line broker's, or Medi-Cal managed care plan's delinquent annual tax shall be applied as follows:

- (1) First, to any interest due on the tax.
- (2) Second, to any penalty imposed by this part.
- (3) The balance, if any, to the tax itself.

(b) This section shall remain in effect only until January 1, 2011, and as of that date is repealed.

SEC. 74. Section 12636.5 is added to the Revenue and Taxation Code, to read:

12636.5. (a) Every payment on an insurer's or surplus line broker's delinquent annual tax shall be applied as follows:

- (1) First, to any interest due on the tax.
- (2) Second, to any penalty imposed by this part.
- (3) The balance, if any, to the tax itself.

(b) This section shall become operative on January 1, 2011.

SEC. 75. Section 12679 of the Revenue and Taxation Code is amended to read:

12679. (a) If an insurer's or Medi-Cal managed care plan's right to do business has been forfeited or its corporate powers suspended, service of summons may be made upon the persons designated by law to be served as agents or officers of the insurer or Medi-Cal managed care plan, and these persons are the agents of the insurer or Medi-Cal managed care plan for all purposes necessary in order to prosecute the action. In the case of corporations whose powers have been suspended, the persons constituting the board of directors may defend the action.

(b) This section shall remain in effect only until January 1, 2011, and as of that date is repealed.

SEC. 76. Section 12679 is added to the Revenue and Taxation Code, to read:

12679. (a) If an insurer's right to do business has been forfeited or its corporate powers suspended, service of summons may be made upon the persons designated by law to be served as agents or officers of the insurer, and these persons are the agents of the insurer for all purposes necessary in order to prosecute the action. In the case of corporations whose powers have

been suspended, the persons constituting the board of directors may defend the action.

(b) This section shall become operative on January 1, 2011.

SEC. 77. Section 12681 of the Revenue and Taxation Code is amended to read:

12681. (a) In the action, a certificate of the Controller or of the secretary of the board, showing unpaid taxes against an insurer or Medi-Cal managed care plan is prima facie evidence of:

(1) The assessment of the taxes.

(2) The delinquency.

(3) The amount of the taxes, interest, and penalties due and unpaid to the state.

(4) That the insurer or Medi-Cal managed care plan is indebted to the state in the amount of taxes, interest, and penalties appearing unpaid.

(5) That there has been compliance with all the requirements of law in relation to the assessment of the taxes.

(b) This section shall remain in effect only until January 1, 2011, and as of that date is repealed.

SEC. 78. Section 12681 is added to the Revenue and Taxation Code, to read:

12681. (a) In the action, a certificate of the Controller or of the secretary of the board, showing unpaid taxes against an insurer is prima facie evidence of:

(1) The assessment of the taxes.

(2) The delinquency.

(3) The amount of the taxes, interest, and penalties due and unpaid to the state.

(4) That the insurer is indebted to the state in the amount of taxes, interest, and penalties appearing unpaid.

(5) That there has been compliance with all the requirements of law in relation to the assessment of the taxes.

(b) This section shall become operative on January 1, 2011.

SEC. 79. Section 12801 of the Revenue and Taxation Code is amended to read:

12801. (a) Annually, between December 10th and 15th, the Controller shall transmit to the commissioner a statement showing the names of all insurers and Medi-Cal managed care plans that failed to pay on or before December 10th the whole or any portion of the tax that became delinquent in the preceding June or which has been unpaid for more than 30 days from the date it became due and payable as a deficiency assessment under this part or the whole or any part of the interest or penalties due with respect to the tax. The statement shall show the amount of the tax, interest, and penalties due from each insurer or Medi-Cal managed care plan.

(b) This section shall remain in effect only until January 1, 2011, and as of that date is repealed.

SEC. 80. Section 12801 is added to the Revenue and Taxation Code, to read:

12801. (a) Annually, between December 10th and 15th, the Controller shall transmit to the commissioner a statement showing the names of all insurers that failed to pay on or before December 10th the whole or any portion of the tax that became delinquent in the preceding June or which has been unpaid for more than 30 days from the date it became due and payable as a deficiency assessment under this part or the whole or any part of the interest or penalties due with respect to the tax. The statement shall show the amount of the tax, interest, and penalties due from each insurer.

(b) This section shall become operative on January 1, 2011.

SEC. 81. Section 12951 of the Revenue and Taxation Code is amended to read:

12951. (a) If any amount has been illegally assessed, the board shall set forth that fact in its records, certify the amount determined to be assessed in excess of the amount legally assessed and the insurer, surplus line broker, or Medi-Cal managed care plan against which the assessment was made, and authorize the cancellation of the amount upon the records of the Controller and the board. The board shall mail a notice to the insurer, surplus line broker, or Medi-Cal managed care plan of any cancellation authorized. Any proposed determination by the board pursuant to this section with respect to an amount in excess of fifty thousand dollars (\$50,000) shall be available as a public record for at least 10 days prior to the effective date of that determination.

(b) This section shall remain in effect only until January 1, 2011, and as of that date is repealed.

SEC. 82. Section 12951 is added to the Revenue and Taxation Code, to read:

12951. (a) If any amount has been illegally assessed, the board shall set forth that fact in its records, certify the amount determined to be assessed in excess of the amount legally assessed and the insurer or surplus line broker against which the assessment was made, and authorize the cancellation of the amount upon the records of the Controller and the board. The board shall mail a notice to the insurer or surplus line broker of any cancellation authorized. Any proposed determination by the board pursuant to this section with respect to an amount in excess of fifty thousand dollars (\$50,000) shall be available as a public record for at least 10 days prior to the effective date of that determination.

(b) This section shall become operative on January 1, 2011.

SEC. 83. Section 12977 of the Revenue and Taxation Code is amended to read:

12977. (a) If the board determines that any tax, interest, or penalty has been paid more than once or has been erroneously or illegally collected or computed, the board shall set forth that fact in its records of the board, certify the amount of the taxes, interest, or penalties collected in excess of what was legally due, and from whom they were collected or by whom paid, and certify the excess to the Controller for credit or refund.

(b) The Controller upon receipt of a certification for credit or refund shall credit the excess on any amounts then due and payable from the insurer,

surplus line broker, or Medi-Cal managed care plan under this part and refund the balance.

(c) Any proposed determination by the board pursuant to this section with respect to an amount in excess of fifty thousand dollars (\$50,000) shall be available as a public record for at least 10 days prior to the effective date of that determination.

(d) This section shall remain in effect only until January 1, 2011, and as of that date is repealed.

SEC. 84. Section 12977 is added to the Revenue and Taxation Code, to read:

12977. (a) If the board determines that any tax, interest, or penalty has been paid more than once or has been erroneously or illegally collected or computed, the board shall set forth that fact in its records of the board, certify the amount of the taxes, interest, or penalties collected in excess of what was legally due, and from whom they were collected or by whom paid, and certify the excess to the Controller for credit or refund.

(b) The Controller upon receipt of a certification for credit or refund shall credit the excess on any amounts then due and payable from the insurer or surplus line broker under this part and refund the balance.

(c) Any proposed determination by the board pursuant to this section with respect to an amount in excess of fifty thousand dollars (\$50,000) shall be available as a public record for at least 10 days prior to the effective date of that determination.

(d) This section shall become operative on January 1, 2011.

SEC. 85. Section 12983 of the Revenue and Taxation Code is amended to read:

12983. (a) Interest shall be allowed upon the amount of any overpayment of tax by an insurer or Medi-Cal managed care plan pursuant to this part at the modified adjusted rate per month established pursuant to Section 6591.5, from the first day of the monthly period following the period during which the overpayment was made. For purposes of this section, "monthly period" means the month commencing on the day after the due date of the payment through the same date as the due date in each successive month. In addition, a refund or credit shall be made of any interest imposed upon the claimant with respect to the amount being refunded or credited.

The interest shall be paid as follows:

(1) In the case of a refund, to the last day of the calendar month following the date upon which the claimant is notified in writing that a claim may be filed or the date upon which the claim is approved by the board, whichever date is the earlier.

(2) In the case of a credit, to the same date as that to which interest is computed on the tax or amount against which the credit is applied.

(b) This section shall remain in effect only until January 1, 2011, and as of that date is repealed.

SEC. 86. Section 12983 is added to the Revenue and Taxation Code, to read:

12983. (a) Interest shall be allowed upon the amount of any overpayment of tax by an insurer pursuant to this part at the modified adjusted rate per month established pursuant to Section 6591.5, from the first day of the monthly period following the period during which the overpayment was made. For purposes of this section, “monthly period” means the month commencing on the day after the due date of the payment through the same date as the due date in each successive month. In addition, a refund or credit shall be made of any interest imposed upon the claimant with respect to the amount being refunded or credited.

The interest shall be paid as follows:

(1) In the case of a refund, to the last day of the calendar month following the date upon which the claimant is notified in writing that a claim may be filed or the date upon which the claim is approved by the board, whichever date is the earlier.

(2) In the case of a credit, to the same date as that to which interest is computed on the tax or amount against which the credit is applied.

(b) This section shall become operative on January 1, 2011.

SEC. 87. Section 12984 of the Revenue and Taxation Code is amended to read:

12984. (a) If the board determines that any overpayment has been made intentionally or made not incident to a bona fide and orderly discharge of a liability reasonably assumed by the insurer, surplus line broker, or Medi-Cal managed care plan to be imposed by law, no interest shall be allowed on the overpayment.

(b) If any insurer, surplus line broker, or Medi-Cal managed care plan which has filed a claim for refund requests the board to defer action on its claim, the board, as a condition to deferring action, may require the claimant to waive interest for the period during which the insurer, surplus line broker, or Medi-Cal managed care plan requests the board to defer action on the claim.

(c) This section shall remain in effect only until January 1, 2011, and as of that date is repealed.

SEC. 88. Section 12984 is added to the Revenue and Taxation Code, to read:

12984. (a) If the board determines that any overpayment has been made intentionally or made not incident to a bona fide and orderly discharge of a liability reasonably assumed by the insurer or surplus line broker to be imposed by law, no interest shall be allowed on the overpayment.

(b) If any insurer or surplus line broker which has filed a claim for refund requests the board to defer action on its claim, the board, as a condition to deferring action, may require the claimant to waive interest for the period during which the insurer or surplus line broker requests the board to defer action on the claim.

(c) This section shall become operative on January 1, 2011.

SEC. 89. Section 13108 of the Revenue and Taxation Code is amended to read:

13108. (a) A judgment shall not be rendered in favor of the plaintiff when the action is brought by or in the name of an assignee of the insurer paying the tax, interest, or penalties, or by any person other than the insurer or Medi-Cal managed care plan that has paid the tax, interest, or penalties.

(b) This section shall remain in effect only until January 1, 2011, and as of that date is repealed.

SEC. 90. Section 13108 is added to the Revenue and Taxation Code, to read:

13108. (a) A judgment shall not be rendered in favor of the plaintiff when the action is brought by or in the name of an assignee of the insurer paying the tax, interest, or penalties, or by any person other than the insurer that has paid the tax, interest, or penalties.

(b) This section shall become operative on January 1, 2011.

SEC. 91. Section 14301.11 is added to the Welfare and Institutions Code, to read:

14301.11. (a) The department shall use funds attributable to the tax on Medi-Cal managed care plans imposed by Section 12201 of the Revenue and Taxation Code for the purpose specified in paragraph (1) of subdivision (b) of Section 12201 of the Revenue and Taxation Code.

(b) This section shall remain in effect only until January 1, 2011, and as of that date is repealed.

SEC. 92. Notwithstanding any other law to the contrary, the amendments to Sections 12201, 12204, 12251, 12253, 12254, 12257, 12258, 12260, 12301, 12302, 12303, 12304, 12305, 12307, 12412, 12413, 12421, 12422, 12423, 12427, 12428, 12429, 12431, 12433, 12434, 12491, 12493, 12494, 12601, 12602, 12631, 12632, 12636, 12636.5, 12679, 12681, 12801, 12951, 12977, 12983, 12984, and 13108 of, the addition of Sections 12009 and 12207 to, and the addition of Article 4 (commencing with Section 12240) to Chapter 3 of Part 7 of Division 2 of, the Revenue and Taxation Code, and the addition of Section 14301.11 to the Welfare and Institutions Code, by this act shall have no force or effect if any of the following applies:

(a) There is a final judicial determination made by any state or federal court that is not appealed, or by a court of appellate jurisdiction that is not further appealed, in any action by any party, or a final determination by the administrator of the federal Centers for Medicare and Medicaid Services, that federal financial participation is not available with respect to any payment made under the methodology implemented pursuant to this act because the methodology is invalid, unlawful, or contrary to any provision of federal law or regulations, or of state law.

(b) The revenues derived from the imposition of the tax pursuant to Section 12201 of the Revenue and Taxation Code on Medi-Cal managed care plans are diverted in whole or in part from the purpose of implementing the purposes specified in subdivision (b) of Section 12201 of the Revenue and Taxation Code.

(c) There is a final judicial determination made by any state or federal court that is not appealed, or by a court of appellate jurisdiction that is not further appealed, in any action by any party, that the tax imposed pursuant

to this act on Medi-Cal managed care plans is required to be in lieu of all other taxes as described in Section 12204 of the Revenue and Taxation Code.

SEC. 93. If there is a delay for any reason in the implementation of Section 14301.11 of the Welfare and Institutions Code in the 2009–10 rate year or in any other rate year, both of the following shall apply:

(a) A Medi-Cal managed care plan subject to the tax imposed pursuant to Section 12201 of the Revenue and Taxation Code shall be assessed the amount the plan will be required to pay, but shall not be required to pay the tax until the State Department of Health Care Services meets all of its obligations pursuant to Sections 14301.1 and 14301.11 of the Welfare and Institutions Code.

(b) The department may retroactively increase rates and make payments to plans.

SEC. 94. The Legislature finds and declares that the amendments to Section 130105 of the Health and Safety Code made by Section 1 of this act further the goals and purposes of the California Children and Families Act of 1998.

SEC. 95. (a) The Director of Finance shall make the necessary budgetary adjustments to allow the expenditure of funds allocated by the commission pursuant to the amendments to Section 130105 of the Health and Safety Code made by this act.

(b) Within 30 days of making any budgetary adjustments pursuant to subdivision (a), the Director of Finance shall notify the Joint Legislative Budget Committee and the fiscal and appropriate policy committees of the Legislature of those adjustments, including a description of the revenues and expenditures.

SEC. 96. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 97. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to address important issues relating to health care, it is necessary that this act go into effect immediately.